

EX PARTE OR LATE FILED

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Petition of the Connecticut)
Department of Public Utility)
Control to Retain Regulatory)
Control of the Rates of Wholesale)
Cellular Service Providers in the)
State of Connecticut)

PR Docket No. 94-106

DOCKET FILE COPY ORIGINAL

RECEIVED

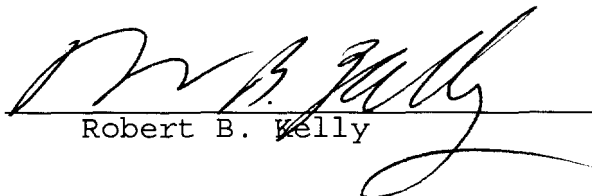
FEB - 7 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

DECLARATION

I, Robert B. Kelly of Kelly & Povich, P.C., ("K & P"), counsel to Connecticut Telephone and Communication Systems declare under penalty of perjury that I have read the Protective Order that has been entered by the Wireless Telecommunications Bureau in Federal Communications Commission proceeding PR Docket No. 94-106, and that I agree that I and K & P will be bound by its terms pertaining to the confidentiality of Confidential Information and that I am not involved in devising marketing plans for any of the Parties.

A copy of the full text of Appendix B, Federal Communications Commission PR Docket No. 94-106 PROTECTIVE ORDER (Connecticut), is attached.


Robert B. Kelly

Kelly & Povich, P.C.
1101 30th Street, N.W., Suite 300
Washington, D.C. 20007
(202) 342-0460

February 7, 1995

No. of Copies rec'd
List A B C D E

024

APPENDIX B
FEDERAL COMMUNICATIONS COMMISSION
PR DOCKET NO. 94-106
PROTECTIVE ORDER (CONNECTICUT)

WHEREAS Springwiche Cellular Limited Partnership ("Springwiche") and Metro Mobile CTS of Fairfield County, Inc., Metro Mobile CTS of Hartford, Inc., Metro Mobile CTS of New Haven, Inc., Metro Mobile CTS of New London, Inc., Metro Mobile CTS of Windham, Inc. (collectively "Metro Mobile"), and Litchfield County Cellular, Inc. ("Litchfield") are providing certain information, namely interrogatory responses and late filed exhibits, which would in the opinion of Springwiche, Metro Mobile, and Litchfield result in the disclosure of confidential and proprietary information, and which information Springwiche, Metro Mobile, and Litchfield contend constitutes trade secrets.

NOW THEREFORE, IT IS HEREBY ORDERED that the following procedure be adopted for the protection of said interrogatory responses and late filed exhibits by or from Springwiche, Metro Mobile, and Litchfield:

1. Any and all information provided by Springwiche, whether in documentary form or otherwise, identified as follows: Attachment A to TE-3, Attachment A to TE-5, and Attachment A to TE-6, and any and all information requested on or after the hearings commenced in this proceeding on May 12, 1994, and which the Department has or may in the future require Springwiche to provide on a protected basis, including but not limited to Springwiche's responses to late-filed requests number 2, 3, 4, 5, 7 and 9 (portions), shall be governed by the terms of this Order (hereafter, together with the information provided hereunder by Metro Mobile and Litchfield, the "Confidential Information"). This Order is applicable to all such "Confidential Information, whether in the form of documents, data, testimony, studies, or otherwise, and applies also to any material in the form of documents, data, testimony, studies, or otherwise which may be created for purposes of this proceeding by Recipients, as defined below, based upon or by reference to the Confidential Information.

2. Any and all information provided by Metro Mobile, whether in documentary form or otherwise, identified as follows: TE-3 and TE-6, and any and all information requested on or after the hearings commenced in this proceeding on May 12, 1994 and which the Department has or may in the future require Metro Mobile to provide on a protected basis, shall be governed by the terms of this Order. This Order is applicable to all such Confidential Information, whether in the form of documents, data, testimony, studies, or

otherwise, and applies also to any material in the form of documents, data, testimony, studies, or otherwise which may be created for purposes of this proceeding by Recipients, as defined below, based upon or by reference to the Confidential Information.

3. Any and all information provided by Litchfield, whether in documentary form or otherwise, identified as follows: TE-3, and TE-6 and any and all information requested on or after the hearings commenced in this proceeding on May 12, 1994 and which the Department has or may in the future require Litchfield to provide on a protected basis, shall be governed by the terms of this Order. This Order is applicable to all such Confidential Information, whether in the form of documents, data, testimony, studies, or otherwise and applies also to any material in the form of documents, data, testimony, studies, or otherwise which may be created for purposes of this proceeding by Recipients, as defined below, based upon or by reference to the Confidential Information.

4. All Confidential Information made available pursuant to this Order shall be given solely to the Federal Communications Commission ("Commission") and any member of its staff. Such Confidential Information shall also be provided, subject to the terms of this Order, to the following Recipients: the Office of Consumer Counsel, and any member of its staff; the Attorney General, and any member of his staff; Jean L. Kiddo and Shelley L. Spencer (as outside counsel to Springwich) of Swidler & Berlin, Chtd; Robert P. Knickerbocker (as outside counsel to Metro Mobile) of Day, Berry & Howard; Thomas Ryan (as outside counsel to Escotel Cellular, Inc., The Phone Extension, Inc., and Esco PCN Telecommunications, Inc.); Paul E. Knag (as outside counsel to the Connecticut Resellers Coalition) of Cummings and Lockwood; Charles W. King (as outside expert witness for the Connecticut Resellers Coalition) of Snively & King; and Jerry A. Hausman (as outside expert witness for Metro Mobile and, for purposes of this Order, as outside expert for Springwich) of the Massachusetts Institute of Technology; and to such individuals at their respective firms or other independent outside experts retained by any admitted party or intervenor herein as may also execute a copy of this Order and submit such executed copy to the Department, with a copy to counsel for Springwich, Metro Mobile and to Litchfield. Confidential Information may not be provided or disclosed in any manner by the Commission or any Recipient to any individual with operational responsibilities at any party or intervenor or to anyone else whatsoever except those designated as permissible Recipients hereunder.

5. Confidential Information will be plainly marked as such and delivered in sealed envelopes to William F. Caton, Secretary, Federal Communications Commission, for filing under seal, and to the other recipients. Confidential Information so provided shall be

maintained by the Commission and Recipients in sealed envelopes or containers and a statement in the following form placed on such envelope or container:

THIS ENVELOPE IS NOT TO BE OPENED
NOR THE CONTENTS THEREOF TO BE
DISPLAYED OR REVEALED EXCEPT PURSUANT
TO THE PROTECTIVE ORDER ISSUED IN
PR DOCKET NO. 94-106.

6. The Commission and all Recipients shall be bound by the terms of this Order.
7. In the event the Confidential Information is to be used in any manner in this proceeding before the Commission, such proceeding or hearing shall not be held before, nor any record of it made available to, any party, intervenor, or any other person or entity other than under seal issued hereunder. Present at such proceeding or hearing shall be the Recipients, as well as counsel and representatives of Springwiche where Confidential Information provided by Springwiche is used, counsel and representatives of Metro Mobile where Confidential Information provided by Metro Mobile is used, and by counsel and representatives of Litchfield where Confidential Information provided by Litchfield is used; provided, however, that outside counsel of Springwiche, Metro Mobile, and Litchfield may participate in all such proceedings or hearings. No record shall be disclosed or communication made at any time to any person or entity other than as specified in this Order, except by Commission decision explicitly providing affected parties the opportunity for prior judicial review.
8. Any reference to Confidential Information in briefs in this proceeding shall be by separate supplemental or unredacted briefs, which supplemental or unredacted briefs shall be plainly marked to identify the contents as Confidential Information, shall be separately filed with the Commission in plainly marked sealed envelopes, shall be distributed only to individuals who are permitted access to the Confidential Information pursuant to this Order, and will be retained by the Commission under seal.
9. No copies shall be made of the Confidential Information other than for the Recipients unless expressly ordered by the Commission.
10. Nothing herein shall be construed as a final determination that any of the Confidential Information will be admissible as substantive evidence in this proceeding or at any hearing. Moreover, nothing herein shall be considered a waiver of either party's right to assert at a later date that the material is or is not proprietary or is privileged. A party seeking to change the terms of this Order shall by Motion give the other parties three (3) days prior written notice. No information protected by this Order shall be made public until the Commission rules on any request to change the terms of the Order and such ruling becomes final.

11. Confidential Information otherwise properly discovered, even though also subject to the terms of this Order, shall not be considered protected by this Order.

12. No Recipient shall use or disclose the Confidential Information for purposes of business or competition, or for any other purpose, other than the purpose of preparation for and conduct of Commission proceedings, and then solely as contemplated herein, and shall in good faith take all reasonable precautions to keep the Confidential Information secure and in accordance with the purposes and intent of this Order. To the extent that the Commission determines to use any Confidential Information in findings of fact or otherwise in its decision in this proceeding, it shall do so in an addendum to its decision, and shall maintain such addendum subject to the terms of this Order.

13. Confidential Information made part of the record in this proceeding shall remain in the possession of the Recipients; provided, however, that all Springwich Confidential Information shall be returned to Springwich, all Metro Mobile Confidential Information shall be returned to Metro Mobile, and all Litchfield Confidential Information shall be returned to Litchfield, within 10 days after demand following a final decision of the FCC proceeding described herein, including any appeal therefrom. Confidential Information to be returned shall include all Confidential Information provided by Springwich, Metro Mobile, and Litchfield including any documents, data, testimony, studies, briefs, or materials in any form whatsoever created by Recipients based upon or by reference to such Confidential Information.

14. Employees of Springwich shall not review or seek to review the Confidential Information provided by Metro Mobile and Litchfield, employees of Metro Mobile shall not review or seek to review the Confidential Information provided by Springwich and Litchfield, and employees of Litchfield shall not review or seek to review the Confidential Information provided by Springwich and Metro Mobile. Provided, however, that Springwich, Metro Mobile, and Litchfield will provide their Confidential Information to the outside counsel of each other.

CERTIFICATE OF SERVICE

I, Robert B. Kelly, hereby certify that a copy of the foregoing Declaration [PR DOCKET 94-106] was mailed, postage prepaid, this 7th day of February, 1995, to the following parties:

Alan R. Shark, President
American Mobile Telecommunications Association Inc.
1150 18th St., N.W., Suite 250
Washington, D.C. 20036

Phillip Rosario, Esq.
Assistant Attorney General
Office of the Attorney General
State of Connecticut
One Central Park Plaza
New Britain, CT 06051

Mark G. Kohler, Esq.
Assistant Attorney General
Office of the Attorney General
State of Connecticut
One Central Park Plaza
New Britain, CT 06051

James T. Scott, III, Esq.
Crowell & Moring
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2595
Bell Atlantic Metro Mobile Companies

Michael F. Altschul, Esq.
Cellular Telecommunications Industry Association
Suite 200
1250 Connecticut Ave., N.W.
Washington, D.C. 20036

Reginald J. Smith, Chairman
Connecticut Department of Public Utility Control
One Central Park Plaza
New Britain, CT 06051

Valerie J. Bryan, Esq.
Connecticut Office of Consumer Counsel
State of Connecticut
Suite 501
136 Main Street
New Britain, CT 06051-7760

Scott K. Morris
McCaw Cellular Communication, Inc.
5400 Carillon Point
Kirkland, Washington 98033

Mark J. Golden, Acting President
Personal Communications Industry Association
Suite 1100
1019 Nineteenth St., N.W.
Washington, D.C. 20046

Jean L. Kiddoo, Esq.
Swidler & Berlin
Suite 300
3000 K Street, N.W.
Washington, D.C. 20007-5116
Springwich Cellular Limited Partnership

Elizabeth R. Sachs
Lukas, McGowan, Nace & Gutierrez, Chartered
1111 19th St., N.W.
Suite 1200
Washington, D.C. 20036
American Mobile Telecommunications Association, Inc.

Thomas Gutierrez, Esq.
Lukas, McGowan, Nace & Gutierrez, Chartered
1111 19th St., N.W.
Suite 1200
Washington, D.C. 20036
Mobile Telecommunication Technologies Corp.

Joel H. Levy, Esq.
Cohn and Marks
Suite 600
1333 New Hampshire Ave., N.W.
Washington, D.C. 20036
National Cellular Resellers Association

Judith St. Ledger-Roty, Esq.
Reed Smith Shaw & McClay
1200 18th Street., N.W.
Washington, D.C. 20036
Paging Network, Inc. (PageNet)

Leonard J. Kennedy, Esq.
Dow, Lohnes & Albertson
1255 23rd St., N.W.
Washington, D.C. 20037
Nextel Communications, Inc.

Russell H. Fox, Esq.
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900, East Tower
Washington, D.C. 20005
E. F. Johnson Company

Douglas B. McFadden, Esq.
McFadden, Evans & Sill
1627 Eye Street, N.W.
Suite 810
Washington, D.C. 20006
GTE Service Corporation

Howard J. Symons, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.
701 Pennsylvania Ave., N.W.
Suite 900
Washington, D.C. 20004
McCaw Cellular Communications, Inc.



Robert B. Kelly